

Wilver Lopez #68930-053

Name and Prisoner/Booking Number

United States Penitentiary Canaan

Place of Confinement

PO Box 300

Mailing Address

Waymart, PA 18472

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

FILED
SCRANTON

APR 09 2018

PER Qu
DEPUTY CLERKIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MIDDLE
PENNSYLVANIA

Wilver Lopez

(Full Name of Plaintiff)

Plaintiff,

vs.

CASE NO.

3:18-cv-772

(To be supplied by the Clerk)

(1) United States of America

(Full Name of Defendant)

(2)

(3)

(4)

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.CIVIL RIGHTS COMPLAINT
BY A PRISONER☒ Original Complaint☐ First Amended Complaint☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).☒ Other: Federal Tort Claims Act ("FTCA")2. Institution/city where violation occurred: United States Penitentiary Lewisburg

B. DEFENDANTS

1. Name of first Defendant: United States of America The first Defendant is employed as: Staff (several) at United States Penn Lewisburg
(Position and Title) (Institution)
2. Name of second Defendant: _____ The second Defendant is employed as: _____
(Position and Title) (Institution)
3. Name of third Defendant: _____ The third Defendant is employed as: _____
(Position and Title) (Institution)
4. Name of fourth Defendant: _____ The fourth Defendant is employed as: _____
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☒ No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

COUNT I

1. State the constitutional or other federal civil right that was violated: Negligence

2. Count I. Identify the issue involved. Check only one. State additional issues in separate counts.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input checked="" type="checkbox"/> Other: <u>Negligence</u>	

3. Supporting Facts. State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

Based on the negligence of the Federal Bureau of Prisons staff at the United States Penitentiary Lewisburg in the handling and preparation of food served to the inmate population on or about November/December 2016 which resulted in the undersigned being contaminated with Salmonella food poisoning.

4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

The gross negligence of the staff caused the undersigned to become ill with Salmonella.

5. Administrative Remedies:

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- b. Did you submit a request for administrative relief on Count I? ☒ Yes ☐ No
- c. Did you appeal your request for relief on Count I to the highest level? ☒ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

COUNT II

1. State the constitutional or other federal civil right that was violated: Deliberate indifference to a serious medical need.

2. Count II. Identify the issue involved. Check only one. State additional issues in separate counts.

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input checked="" type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. Supporting Facts. State as briefly as possible the FACTS supporting Count II. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

The undersigned became ill with diarrhea, nausea, vomiting as well as abdominal pain. The undersigned requested medical treatment during the course of his illness and the medical department stated that they "could not" in any way possible treat everyone that fell ill. They further stated to the undersigned to drink plenty of water in order to "Flush" the system.

4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

The actions and omissions of the United States Penitentiary Lewisburg staff alleged here amounts to gross negligence, failure to adequately train and deliberate indifference to a serious medical need. Which amounted to the undersigned becoming ill with Salmonella.

5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- b. Did you submit a request for administrative relief on Count II? ☒ Yes ☐ No
- c. Did you appeal your request for relief on Count II to the highest level? ☒ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____
- _____

COUNT III

1. State the constitutional or other federal civil right that was violated: N/A

2. Count III. Identify the issue involved. Check only one. State additional issues in separate counts.

- | | | | |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. Supporting Facts. State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments. N/A

4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

N/A

5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count III? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count III to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

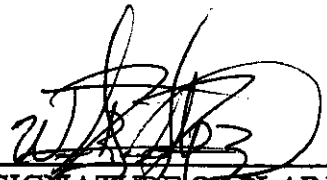
E. REQUEST FOR RELIEF

State the relief you are seeking:

As provided by The Federal Tort Claims Act (FTCA), 28 U.S.C. §2672,
damages are sought in the amount of \$66,000.00.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3-21-2018
DATE


SIGNATURE OF PLAINTIFF


(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.


Case Manager:
Authorized by the Act of July 7, 1965,
as amended, to administer oaths
(18 USC 4004)
USP Caran

Wilver Lopez
#68930-053
United States Penitentiary Canaan
PO Box 300
Waymart, PA 18472

RECEIVED
SCRANTON

APR 09 2018

PER

DEPUTY

"Legal Mail"

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
CLERK OF THE COURT

PO BOX 1148
SCRANTON, PA 18501

W. Lopez

18501-1148

LEHIGH VALLEY

05 APR 2018

